IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

CIVIL ACTION NO. 3:19-CV-00533-RJC-DSC

| BARBARA GRIFFITH, |) | |
|---|-------------|--------------|
| Plaintiff, |))) | |
| v. |) | <u>ORDER</u> |
| BANC OF AMERICA MERCHANT SERVICES LLC, |))) | |
| Defendant. |) | |
| | | |

THIS MATTER is before the Court on Plaintiff's "Amended Complaint" (document #17) filed April 3, 2020, as well as "Defendant's Motion to Strike and Motion to Dismiss Plaintiff's Amended Complaint" (document #18), filed April 17, 2020 and "Defendant's Consent to Plaintiff's Filing of An Amended Complaint ... Plaintiff's Response to Defendant's Motion to Dismiss ... and the Parties' Joint Motion to Allow Defendant an Extension ... to Respond to Count III of Amended Complaint" (documents ##19 and 20) filed May 1, 2020.

Rule 15 of the Federal Rules of Civil Procedure governs amendments to pleadings. Rule 15(a)(1) grants a party the right to "amend its pleading once as a matter of course," if done within twenty-one days after serving the pleading, Fed. R. Civ. P. 15(a)(1)(A), or "if the pleading is one to which a responsive pleading is required," a party may amend once as a matter of course, provided that it does so within "21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Fed. R. Civ. P. 15(a)(1)(B). After twenty-one days, a plaintiff may file an amended pleading "only with the opposing party's written consent or the court's leave . . ." Fed. R. Civ. P. 15(a)(2).

Plaintiff did not file her Amended Complaint within twenty-one days of receipt of

Defendant's "Motion to Dismiss" (document #8). She did not seek Defendant's consent or leave

of Court prior to filing her Amended Complaint. Accordingly, the Court will strike the Amended

Complaint.

IT IS HEREBY ORDERED that:

1. The Amended Complaint (document #17) is **STRICKEN**.

2. "Defendant's Motion to Strike and Motion to Dismiss Plaintiff's Amended Complaint"

(document #18) and "Defendant's Consent to Plaintiff's Filing of An Amended Complaint ...

Plaintiff's Response to Defendant's Motion to Dismiss ... and the Parties' Joint Motion to Allow

Defendant an Extension ... to Respond to Count III of Amended Complaint" (documents ##19

and 20) are **DENIED AS MOOT**.

3. The Clerk is directed to send copies of this Order to counsel for the parties and to the

Honorable Robert J. Conrad, Jr.

SO ORDERED.

Signed: May 4, 2020

David S. Cayer

United States Magistrate Judge